

State of California
Fair Political Practices Commission



Bulletin

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August 1999

Chairman's Message

As many of you know, we are taking a close look at how we communicate with the general public — as well as those we regulate — through our website, fax-on-demand, the *Bulletin*, and other informational and educational methods. We want to be certain we are disseminating the “right” kind of information — information that is useful and responsive to the needs of the public, elected officials and others impacted by the commission. And we want to be sure that we are conveying this information in a way that is effective, and that best utilizes our limited resources.

While we're in this process of “re-tooling” our education/information efforts, we are interested in getting feedback, as well as suggestions for improvement. What do *you* want to know, and by what means do you want to receive it? Through the Internet (if you haven't already, check out our website, www.fppc.ca.gov, and let us know how we can improve it), through fax-on-demand, and/or through the *Bulletin*. Since much of the information posted on our website also is contained in printed format in the *Bulletin*, do you find you utilize both resources? If not, which information source do you prefer?

In a future issue of the *Bulletin*, we will include a brief questionnaire asking you to respond to those questions. In the interim, we welcome your comments. Don't hesitate to contact us by calling Dixie Howard at 916-322-5660, press 3.

A handwritten signature in cursive script that reads "Karen Getman".

Karen Getman, Chairman

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Bulletin Mailings

The April 1999 issue of the Bulletin is included with this issue. Due to budget shortfalls in the last fiscal year, the Commission was unable to mail the hard copy of the Bulletin after the April issue was published. Past and current issues of the Bulletin may also be viewed on the Commission's website at www.fppc.ca.gov, under the "Library" icon.

Future Commission Meeting Dates

The Commission meeting dates for the rest of this year will be:

August 6
September 10
October 8
November 5
December 3

Regular Commission meetings begin at 9:30 a.m.

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California Fair Political Practices Commission

Karen A. Getman, Chairman
William Deaver, Commissioner
Kathleen Makel, Commissioner
Carol Scott, Commissioner

Commission Meetings

Meetings are regularly scheduled for the first Friday of each month at 9:30 a.m. in the Commission Hearing Room, 428 J Street, 8th Floor, Sacramento. Please contact the Commission to confirm meeting dates.

Pursuant to Section 11125 of the Bagley-Keene Open Meeting Act, the FPPC is required to give notice of its meetings ten (10) days in advance of the meeting. In order to allow time for inclusion in the meeting agenda and reproduction, all Stipulation, Order, and Decision materials must be received by the FPPC no later than three (3) business days prior to the ten day notice date.

To receive a copy of the Commission meeting agenda (free) or a copy of the full meeting packet (\$10/month or \$100/year) contact the Commission at (916) 322-5660. The agenda and packet are also available through the Commission's Fax-On-Demand service at 1-888-622-1151, index number 7000. Additionally, past and future agendas are posted on the website at www.fppc.ca.gov.

Bathen, Tocher, Rickards

Named to FPPC Media, Legislative, and Enforcement Posts

The California Fair Political Practices Commission has announced the appointments of veteran Sacramento journalist Sigrid Bathen as FPPC media director, Sacramento attorney and public relations executive Scott Tocher as director of government relations, and Cyrus J. Rickards, a legislative advocate for the state Attorney General's office with broad legal experience in government law and private practice, as head of the enforcement division. Rickards returns to the agency where he worked after graduating from law school in the early 1980s.

"Bathen and Tocher are two very well-seasoned media and legal professionals," said Commission Chairman Karen Getman, who was named chair of the FPPC by Gov. Gray Davis in March. "They will strengthen commission efforts to provide information about the FPPC and to work with legislators and other regulatory agencies and community groups concerned about political reform."

"Cy Rickards is a person of great stature who shares the Commission's commitment to professional, fair and tough enforcement. We are delighted that he has agreed to lead the FPPC's enforcement program, and confident that he will achieve our goal of swift enforcement of the Political Reform Act."

A *Sacramento Bee* reporter for 13 years, **Bathen** was press secretary to state Superintendent of Public Instruction Wilson Riles, from 1981-83, and Attorney General John K. Van de Kamp., from 1983-87. She has written for *California Lawyer*, the *American Lawyer Newspapers Group*, *California Medicine*, and the *Los Angeles Times*, and since 1996 has been associate and senior editor of the *California Journal*, an award-winning magazine about politics and government. She has won numerous awards, including the Press-Bar

Award from the State Bar of California, the Catherine L. O'Brien Award for women's interest reporting, California and National Mental Health Association awards for coverage of mental health issues, awards for commentary and enterprise reporting from the Society of Professional Journalists, and a Pulitzer nomination. An adjunct journalism professor at California State University-Sacramento, she has a Bachelor's degree in journalism from CSU-Chico, and a Master's degree in English and journalism from CSU-Sacramento.

From 1996-99, **Tocher** was an associate attorney with the Sacramento law firm of Bolling, Walter & Gawthrop, where his focus included statutory interpretation and research of legislative history. From 1995-96, he was an assistant account executive for the public relations firm of Stoorza Ziegeus Metzger & Hunt, where he worked with employers, trade and labor groups to support legislative creation of the California Earthquake Authority. While in college, he worked as a student intern and later on the campaign staff of then-Assemblyman Tim Leslie (R-Tahoe City), now a state Senator. Tocher received his Bachelor's degree in government from California State University, Sacramento, and his law degree from McGeorge School of Law in Sacramento, where he was an editor of the Law Review.

In addition to serving as the Commission's legislative liaison, Tocher will work with other regulatory agencies, such as the Secretary of State's office, to provide information and encourage better public understanding of the state's political reform laws. He will also work with Bathen in media relations and assist other attorneys on cases in the FPPC's legal division.

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Bathen, Tocher, Rickards –

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A deputy attorney general in the Government and Correctional Law sections of the Attorney General's office since 1989, **Rickards** since February has been the principal legislative advocate for non-criminal legislation. From 1991-99, he handled a wide variety of complex cases in Government Law, representing various clients, including the Governor and other constitutional officers. Among many high-profile cases, he was assigned to litigation involving the constitutionality and enforcement of the National Voter Registration Act of 1993 (Voting Rights Coalition, et. al. v. Wilson and Wilson v. United States, et. al.), better known as the "motor voter" law, and litigation affecting Proposition 198 (California Democratic Party et. al. v. Jones et. al.), the open primary law.

From 1981-86 and 1987-89, he was a deputy public defender with the Sacramento County Public Defender's Office, where he tried more than 50 jury trials and handled some 100 juvenile court hearings. He was in private practice from 1986-87, when he was also the legislative advocate for California Attorneys for Criminal Justice and the California Public Defenders Association.

A 1963 graduate of the United States Air Force Academy, he rose to the rank of Captain in the Air Force, serving in the U.S., Germany and Vietnam. He received an Honorable Discharge in 1971, then worked for the

California Office of Criminal Justice Planning (OCJP) and the state Department of Finance from 1972-77. He earned a law degree from Catholic University, Columbus School of Law, in Washington, D.C., in 1980, and in 1981 was a Graduate Legal Assistant and legal counsel for the FPPC's Enforcement Division, which he now will head.

Rickards is an Adjunct Professor of Law at the University of California, Davis, King Hall School of Law, specializing in trial practice. Active in the Yolo County community of Davis, he was chair of the City of Davis Planning Commission from 1997-98 and a member of the Davis Natural Resources Commission and the city's Economic Development Task Force. He is also a manager of the Davis Impact U-14 Girls Competitive Soccer Team.

The Enforcement Division of the FPPC currently includes seven attorneys (including the chief) and 13 auditor-investigators, who are responsible for investigating and enforcing provisions of the Political Reform Act of 1974, which established the FPPC. The enforcement unit handles approximately 700 cases each year. Rickards is expected to assume his new duties in early August.

Commission Meeting Summaries

May 7 Meeting

At its meeting on May 7, 1999, the Commission approved the following enforcement matters which are detailed elsewhere in the *Bulletin*:

- Default decision/order in the matter of Marcie De Los Santos and Joseph De Los Santos (\$2,000)
- Stipulation, decision and order in the matter of Don Perata (\$10,500)
- Stipulation, decision and order in the matter of No on A in Redondo Beach and K's Not the Way (\$1,000)

The Commission also discussed the California Republican Party's request for an opinion concerning disclosure of affinity credit card fundraising and voted 3-0, with one abstention, that the fundraising program does not result in a contribution to the Party. A draft opinion will be presented at the June 4, 1999, meeting.

In the matter of the request for reconsideration of the *Larocque* Advice Letter (No. I-98-262) concerning application of the Proposition 73 inter-candidate transfer ban (Section 85304) in local jurisdictions with valid contribution limits, the Commission voted to treat the request as a request for an opinion, and to hold a hearing on the matter on June 4, 1999.

June 4 Meeting

At its meeting on June 4, 1999, the Commission approved the following enforcement matters which are detailed elsewhere in the *Bulletin*:

- Stipulation, decision and order in the matter of Michael Erin Woody (fine lowered to \$3,000)

- Stipulation, decision and order in the matter of Picerne Associates, Inc. (\$67,000)
- Stipulation, decision and order in the matter of William J. Halloran (\$26,000)
- Stipulation, decision and order in the matter of Peter Bianchi (\$1,000)

Prenotice discussion was held concerning the following draft regulations that will be brought back for adoption at the August 6 meeting:

- Amendment to Regulation 18310— Meetings (Commission Meeting Procedures)
- Amendment to Regulation 18404— Termination of Candidate's and Committees' Filing Requirements
- Proposed Regulation 18421.2— Street Address
- Proposed Regulation 18421.6— Reporting of Accrued Expenses
- Proposed Regulation 18426.1— Assistant Treasurer

Additionally, proposed Regulation 18370— State Agency Ethics Training, was presented for adoption. The regulation will be redrafted for adoption at the July 9 meeting.

The Commission held a hearing on the request from the Sonoma County Counsel's office for reconsideration of the *Larocque* Advice Letter (No. I-98-262) which provides that the inter-candidate transfer ban in Government Code Section 85304 is in effect for special elections and in local jurisdictions with valid contribution limits. The motion for reconsideration failed on a 2-2 vote. Therefore, the transfer ban continues to be in effect in local jurisdictions with valid contribution limits.

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Enforcement Actions

Money Laundering Violations

May 7 Meeting

Marcie De Los Santos and Joseph De Los Santos were fined \$2,000 for serving as the intermediary for a campaign contribution without disclosing to the recipient of the campaign contribution the true source of the contribution.

A \$5,000 contribution check dated October 27, 1996, from the De Los Santos was given to Bob Waterston, a Fresno County supervisorial candidate. A \$5,000 check from William and Martha Shubin to Joseph De Los Santos was deposited by the De Los Santos on October 27, 1996, the same date that the check for an identical amount was issued by the De Los Santos to Waterston. The De Los Santos did not inform Waterston that the Shubins were the true source of the contribution.

The Act prohibits making campaign contributions in the name of another person. Commonly known as “campaign money laundering,” the illegal act deprives the public of the right to know the true source of contributions.

June 4 Meeting

Picerne Associates, Inc., was fined \$67,000 for laundering campaign contributions to four different Ontario city council candidates.

Picerne Associates, Inc. was established in 1989 by Kenneth Picerne, the sole shareholder, to engage in various corporate activities including real estate development, property management, investment/financial structuring, and land entitlement services. One of the company’s projects was to acquire and rehabilitate apartment projects in the city of Ontario.

During 1993 through 1996, Picerne Associates, Inc. made 39 illegal campaign contributions to Ontario city council candidates Rudy Favila, Jim Bowman, Gus J. Skropos, and Gary Ovitt. These contributions were made by requesting employees and others to make campaign contributions and then reimbursing those persons for their contributions. Most of these contributions were made in the amount of \$99 each.

William J. Halloran was fined \$26,000 for laundering campaign contributions to Vista city council candidates Mary Lou Clift and Paul Campo.

Halloran is the president and majority owner of Wyroc, Inc., an asphalt crushing and recycling plant located in Vista. During 1996, Wyroc had permit issues before the Vista Planning Commission and the Vista City Council.

In 1996, Halloran made 15 illegal campaign contributions to candidates Clift and Campo by requesting his employees and others to make campaign contributions and then reimbursing those persons for their contributions. All of the contributions were made in the amount of \$99 each.

July 9 Meeting

Placer Holdings, Inc., was fined \$10,800 for laundering campaign contributions to San Francisco Mayoral candidate Frank Jordan.

Placer Holdings, Inc., is a California corporation that was involved in developing the Twelve Bridges planned community and golf course in Placer County. In 1995, Placer Holdings, Inc., made six illegal contributions to Jordan by requesting employees and others to make \$500 campaign contributions and then reimbursing those persons for their contributions.

Personal Use Violations

July 9 Meeting

Chris Miller, Individually, and doing business as Miller/Robertson & Company was fined \$300,000 by default decision and order for 325 personal use of campaign funds and disclosure violations.

Miller was treasurer for a number of candidates and committees. A Franchise Tax Board audit revealed that Miller had misappropriated funds from the committees of Assemblyman Steve Baldwin and Assemblyman Jan Goldsmith. Further investigation was subsequently conducted into Miller's activities by the Franchise Tax Board, the FPPC and the San Diego County District Attorney's Office. The investigation revealed that Miller misappropriated funds from the San Diego County Apartment Association Political Action Committee; Teamsters 572 PAC; Friends of Jan Goldsmith; Tax Fighters for Baldwin; Builders Associates Contractors PAC; Associated General Contractors PAC of San Diego County; Apartment Association California Southern Cities, Income Property PAC; Friends of Christine Kehoe '96; and Ron Roberts for Supervisor.

While Miller served as treasurer for these committees, he misappropriated funds in excess of the agreed upon fees for his monthly services by diverting the funds to his company. To avoid detection, he provided the committees with inaccurate billings and disclosed false and inaccurate information on the committees' campaign statements.

A motion for reconsideration of this case will be heard at the August 6, 1999, Commission meeting.

Revolving Door Violation

July 9 Meeting

John Brooks was fined \$2,000 for communicating with his former state agency on behalf of his new employer within one year after leaving state service.

Brooks worked for the California Integrated Waste Management Board as a Waste Management Specialist and an Associate Waste Management Specialist from August 27, 1990, through January 3, 1996. While he worked as an Associate Waste Management Specialist, he was the liaison to rural counties, including the Regional Council of Rural Counties (RCRC). RCRC is an association of 25 rural California counties that was formed in 1971 to help meet the needs of rural counties. In 1993, fifteen of its member counties formed an Environmental Services Joint Powers Authority (ESJPA) to meet the state's mandate for solid waste. On January 2, 1996, Brooks went to work for ESJPA.

In the first two months after he left state employment, Brooks made two prohibited written communications to the Integrated Waste Management Board for the purpose of influencing an action by the agency. In both instances, the action involved the awarding of a grant. The Act prohibits certain state agency employees, for one year after they leave employment, from being paid to appear before or communicate with their former agency to influence actions by the agency.

Enforcement Actions

Disclosure Violations

May 7 Meeting

Don Perata was fined \$10,500 for failing to disclose sources of income of \$10,000 or more on his candidate statement of economic interests, Form 700, covering the period of December 26, 1994, through December 26, 1995.

Perata failed to disclose income from Gallagher & Burk; Madison Park Properties; The Greater Broadway-580 Business Association; Montclair Golf Enterprises; Summit Medical Center; and Fiscal Operations.

No on A in Redondo Beach and K's Not the Way was fined \$1,000 for failing to timely file a pre-election statement.

No on A in Redondo Beach was a recipient committee, primarily formed to defeat Measure A, a school bond measure for the benefit of the Torrance Unified School District that was voted on in the June 3, 1997, special election. Measure A was defeated in this election. Subsequently, the bond measure was voted on in the November 4, 1997, election and was known as Measure K. The committee campaigned for the measure as "K's Not the Way." The committee failed to timely file the second pre-election statement covering the period of September 21, 1997, through October 18, 1997.

June 4 Meeting

Michael Erin Woody, former Fresno city councilmember, was fined \$3,000 for failing to disclose all of his sources of income on his annual statements of economic interests.

In December 1991, Woody graduated from college with a degree in civil engineering. In order to become a registered civil engineer, an applicant must obtain 24 months of practical

experience under the supervision of a licensed engineer. To obtain the required practical experience, Woody entered into an arrangement with Peter Rockas, whereby Woody would prepare plans and analysis for clients referred to him by his parents. These plan and analysis would then be reviewed and approved by Rockas. This arrangement was in place from December 1991 through September 11, 1997.

Woody never received any income from Rockas. Woody was compensated for his services directly from the clients for whom he worked. When Woody filed his annual statements of economic interests for 1993, 1994, 1995, and 1996, he reported Rockas as the source of income and he did not disclose the names of the clients who paid him directly. These clients were builders who had been referred to him by his parents, residential designers. As a result, Woody concealed the fact that he received substantial income from builders.

Peter Bianchi, Lassen County Deputy Public Defender, was fined \$1,000 for failing to timely file an initial statement of economic interests, Form 700.

Bianchi assumed office on November 25, 1996. On January 14, 1997, the Lassen County Board of Supervisors amended the county's conflict of interest code to include the position of deputy public defender as a designated position. For over a year the Lassen County Clerk attempted to compel Bianchi to file his Form 700s. Bianchi responded that he was not going to file because he considered filing an invasion of privacy. Bianchi also informed the County Clerk that he had researched the statute and in his opinion, found that his position was not one requiring disclosure. He claimed that, as a deputy public defender, he did not

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Enforcement Actions —

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authorize the “expenditure of any funds” or make any decisions that would affect his financial interests. He believed that the County’s code was overbroad.

In response to these concerns, the county clerk requested written advice from the Commission. The Commission responded by letter stating that individuals classified as deputy public defenders appear to “make” or “participate in making governmental decisions,” and therefore should be included in the county’s conflict of interest code. Bianchi sought to modify the county’s code by addressing the matter to the Board of Supervisors to exclude the deputy public defender position. The board of supervisors denied Bianchi’s petition. Bianchi requested a written opinion from the Commission and the Commission sent Bianchi a letter reaffirming the original position.

In November 1998, Bianchi filed his statement. On both his initial Form 700 and his 1997 annual statement, Bianchi had no reportable interests.

General Purpose Committee Audit Selection

On September 15, 1999, the Commission will conduct a public drawing to select state general purpose committees for audit for the 1997/1998 time period. The drawing will be held at 10:00 a.m., 428 J Street, 8th Floor Hearing Room. The results of the audit will be available on the fax-on-demand service and the website after the public drawing.

Commission Meeting Summaries —

Continued from page 5

Opinion No. O-99-047— *In re California Republican Party*, concerning affinity credit card fundraising, was adopted. Under the facts provided in the opinion, no contribution to the Republican Party results from the affinity card fundraising program.

July 9 Meeting

At its meeting on July 9, 1999, the Commission approved the following enforcement matters which are detailed elsewhere in the *Bulletin*:

- Default decision and order in the matter of Chris Miller (\$300,000)
- Stipulation, decision and order in the matter of Placer Holdings, Inc. (\$10,800)
- Stipulation, decision and order in the matter of John Brooks (\$2,000)

In the Matter of Thomas Christopher Almeida, staff was directed to review the issues in Counts 7 through 10 concerning unreported and prohibited gifts and prepare a revised Stipulation for consideration at the August meeting.

Regulation 18370— State Agency Ethics Training and the Resolution on Delegation of Commission Authority; Formation of Chairman’s Subcommittee on Legislation were adopted. Also approved were new outreach and compliance procedures proposed by the Enforcement Division for non-filers of Statements of Economic Interests.

Staff was directed to move forward with proposed legislative amendments to simplify the campaign reporting provisions. The proposed amendment to Section 82013(c), defining major donor committees, will undergo further study.

Supreme Court Grants Petition for Review in Sender Identification Case

On May 12, 1999, the California Supreme Court granted the Commission's petition for review in Griset v. FPPC. In 1991, the Commission fined former councilmember Daniel Griset \$10,000 for failing to properly identify himself as the sender on a campaign mailing as required under California's Political Reform Act (Government Code Section 84305). The California Supreme Court upheld the fine in a 7-0 decision and the United States Supreme Court refused to review the decision. Griset then attempted to relitigate the same issue in Orange County Superior Court, which granted the Commission's motion for summary judgment. Griset appealed the decision of the Superior Court. Oral argument on the second appeal was held on June 10, 1999.

On January 28, 1999, a California Court of Appeal ruled that the Act's sender identification requirements for campaign mailings are unconstitutional. The Court held that a statute which prohibits the distribution of anonymous campaign literature contravenes the First Amendment. It directed the trial court to enter a judgment in accord with that holding and to enjoin the Commission from enforcing Section 84305 in the future. The decision became final on March 1, 1999.

The Supreme Court's order vacates the decision of the Court of Appeal. Therefore, Section 84305 is again in effect.

A fact sheet explaining the identification requirements for mass mailings is located in the Library section of the FPPC website (www.fppc.ca.gov).

Electronic Filing System for March 2000 Primary Campaign Reports

The "Online Disclosure Act of 1997" requires candidates and ballot measure committees that reach a \$100,000 contribution threshold to electronically file contribution and expenditure disclosure reports beginning with the March 2000 primary election cycle. Additionally, lobbying entities will begin filing their reports electronically in May of 2000. The reports will then be immediately posted to the Internet, giving California voters prompt access to campaign finance and lobbyist activity information.

The Secretary of State has approved the following formats for use in electronically submitting both campaign and lobbyist disclosure information:

- California Electronic File Format
(Published on Secretary of State website as .CAL)
- American National Standards Institute (ANSI) X.12 Transaction Set 113

To obtain further information concerning the electronic filing program, please contact David Hulse, Secretary of State's Office, at (916) 653-7043 or via e-mail at dhulse@ss.ca.gov

The legislation summarized below was signed by the Governor:

SB 50 (Johnson) - Creates an additional campaign filing during 1999 and establishes an earlier deadline for the December 31, 1999, semi-annual statement in connection with the 2000 statewide primary which has been advanced from June 6, 2000, to March 7, 2000.

The most recent amendments clarify that local candidates and committees are subject to the additional 1999 filing and the earlier semi-annual deadline if a city or county is holding an election on March 7, the same day as the primary election, as well as for state PACs, major donors, independent expenditure committees, and slate mailer organizations active during 1999 in connection with the March 7 statewide primary. (*Ch. 158, Stats 1999. Effective immediately.*)

SB 104 (Brulte) - Exempts from the one-year “revolving door” ban an official holding an elective office of a local government agency if the appearance or communication of that official is for the purpose of influencing legislative or administrative action on behalf of the local government agency. (*Ch. 10, Stats 1999. Effective April 15, 1999.*)

SB 1024 (Johnson) - Requires the Secretary of State to post on its on-line disclosure system the identification number of every person, entity or committee that has filed a campaign statement. (*Ch. 208, Stats. 1999. Effective January 1, 2000.*)

The legislation summarized below, if approved by the Legislature and signed by the Governor, will amend the provisions of the Political Reform Act. The Commission is sponsoring the following bills:

SB 492 (McPherson) - Would make various minor changes to the Political Reform Act, including amendments to the definitions of “gift,” “income,” and “investment;” amendments to

allow the availability of campaign records; amendments to allow the facsimile transmission of statements of organization; amendments to clarify the rules applicable to members of appointed boards and commissions (Section 84308); and amendments to require county sheriffs to file a statement of economic interests in the same manner as other elected county officials. (*Two-year bill.*)

AB 974 (Papan) - Would increase certain campaign reporting thresholds, conflict of interest related thresholds and enforcement thresholds under the Political Reform Act. Additionally, the bill implements the recommendations of the State Auditor to streamline the manner that lobbying firms, lobbyist employers and general purpose committees are selected for audit.

AB 1274 (Frusetta) - Would change the amount of time allowed the civil prosecutor to review a complaint before determining whether or not to proceed with a civil action against a person suspected of violating the Political Reform Act from two 40-day periods totaling 80 days to one period of 120 days. In addition, the proposal would provide that the statute of limitations is tolled as to the person who filed the complaint with the FPPC.

Other bills related to the Political Reform Act include:

SB 342 (McPherson) - Would change the membership parameters of the Bipartisan (“McPherson”) Commission on the Political Reform Act by specifying that no more than three “political” attorneys can be appointed by elected officials, thereby allowing the other appointing body, the FPPC, to select “political” attorneys regardless of who the elected officials appointed. In addition, the bill also extends the time-frame for the Commission to complete their work

Legislation Update

requiring the report of findings be presented by June 30, 2000 and sunseting on January 1, 2001.

SB 384 (Alpert) - Would provide for advertising disclosure (as in AB 1377 and AB 304) and provisions relating to the circulation of ballot measures.

SB 658 (Karnette) - Technical “clean-up” changes to the Online Disclosure Act.

SB 762 (Sher) - Would require state and county general purpose committees to file pre-election statements when they receive contributions of \$1,000 or more during the time period specified for the pre-election statement. This bill would also expand the information required to be disclosed in a late independent expenditure report to include all of the reportable contributions received and expenditures made by that committee since it filed its last required statement.

SB 813 (Murray) - Would require the FPPC to state its reasons for rejecting the decision of the administrative law judge in writing.

SB 953 (Murray) - Technical, non-substantive “grammatical” change to the definition of “contribution” in the PRA.

SB 1025 (Johnson) - Requires the Secretary of State to expand its on-line disclosure system to include a lobbyist directory.

SB 1169 (Bowen) - Comprehensive campaign finance reform measure affecting statewide offices to be voted upon by the electorate.

SB 1208 (Elections Cmte.) - Requires the Legislative Analyst to prepare a concise summary of the general meaning and effect of “yes” and “no” votes on each state measure (Government Code Section 88002.5.). This requirement sunsetted January 1, 1999, and this bill repeals

the sunset. Technical clean-up primarily to the Elections Code is also included in this bill.

SB 1220 (Schiff) - Would require a committee placing an advertisement for or against a ballot measure to disclose on the advertisement the identity of those persons whose cumulative contributions are \$50,000 or more to the committee placing the advertisement.

SB 1223 (Burton) - Would add the requirement that if a slate mailer endorses a candidate or measure that is not endorsed by the political party the mailer appears to represent, the slate mailer must state that the recommendation is not the official position of that political party.

AB 69 (Cunneen) - Would require advertising for and against state ballot measures to include the names of the top two contributors to the committee placing the advertisement.

AB 84 (Granlund) - Although this bill does not amend the PRA, it would prohibit a city, county, special district, or other local governmental agency from using public funds to pay membership dues or membership fees to any organization that is, makes defined contributions to, or establishes or maintains, a committee as defined under the Political Reform Act of 1974 that is established and registered with the Secretary of State on and after January 1, 1999. The PRA’s definition of “contribution” is used. As amended, the bill would provide, in addition, that the prohibition does not apply to any membership dues or fees that are payroll-deducted and remitted to any labor organization or professional association. (*Two-year bill.*)

AB 307 (Davis) - Would require advertising for and against ballot measures and candidates to include the names of the top two contributors to the committee placing the advertisement. (*Two-year bill.*)

AB 337 (Baldwin) - Eliminates requirement that superior court judges and candidates for superior court judge file their campaign statements with the Secretary of State. *(Two-year bill.)*

AB 746 (Papan) - Would require the FPPC to provide notice to a person alleged to have unintentionally violated certain campaign filing provisions of the Political Reform Act and would require the FPPC to allow that person 21 days to cure their violation before the FPPC may impose a fine when that person provides evidence that the violation was not intentional.

AB 1182 (Frusetta) - Reinstates Proposition 73 contribution limits. *(Two-year bill.)*

AB 1183 (Frusetta) - Would impose additional late filing penalties, equal to ten percent of the amount not reported for each day the campaign statement is late.

AB 1200 (Thompson) - Prohibits the sending of a slate mailer without receiving written permission from each candidate listed. *(Two-year bill.)*

AB 1377 (Gallegos) - Requires the disclosure of the top two contributors to a committee placing an advertisement in support of or opposition to a ballot measure or candidate. *(Two-year bill.)*

AB 1414 (Papan) - Prohibits the FPPC from violating the First or Fourteenth Amendments to the U.S. Constitution. As amended, this urgency measure provides that the Commission shall take no action to implement the Political Reform Act in a manner that would abridge constitutional guarantees of freedom of speech; deny any person of life, liberty, or property without due process of law; or deny any person the equal protection of the laws.

AB 1629 (Villaraigosa) - Strikes from the Act the provisions prohibiting public officers from expending public moneys. *(Two-year bill.)*

AB 1630 (Villaraigosa) - As recently amended, adds to existing law by requiring the FPPC within 5 days of a request for advice to either (1) provide oral advice or (2) direct the requestor to seek written advice. In addition, the bill provides that reliance on oral advice from the Commission constitutes evidence of good faith.

AB 1692 (Con. Pro.) - Would recast the provisions of section 11517 of the Government Code relating to the APA.

ACA 13 (Frusetta) - Constitutional amendment to a section providing that campaign expenditure is a form of political speech protected by Article I of the California Constitution.

Forms Simplification Project

Over the past few months, the Commission has held meetings with interested persons to solicit input about how to streamline and simplify the Act's campaign disclosure provisions. As a result of these meetings, staff will be proposing amendments and adoption of the following regulations at the August 6, 1999, meeting.

- **New Regulation 18426.1 — Assistant Treasurer**

A recipient committee will be permitted to designate one assistant treasurer on the committee's statement of organization (Form 410) pursuant to this regulation. The assistant treasurer would assume the duties and responsibilities of the treasurer if the treasurer is unavailable or vacates the office of treasurer. For example, if the treasurer is out of town when a campaign statement is required to be filed, the assistant treasurer would be allowed to sign the campaign disclosure statement.

- **New Regulation 18421.2 — Zip Codes**

This regulation will add the requirement to include zip codes when reporting street addresses on campaign disclosure statements. When the Secretary of State provides information on the internet under the new electronic filing provisions, only the contributor's name, city, and zip code will be displayed. To protect individuals' privacy, street addresses will not be shown on the internet.

- **New Regulation 18421.6 — Reporting of Accrued Expenses**

Under this regulation, outstanding unpaid bills will be reported on Schedule F of each campaign statement until the expenses are entirely paid. Currently, committees are only required to disclose unpaid bills during a particular reporting period, which makes it harder to track the status of unpaid bills incurred in an earlier period.

Additionally, committees will no longer be required to report unpaid bills for regularly occurring administrative expenses of a committee (such as utility bills, rent and campaign workers' salaries) when a filing period ends before the payment due date.

- **Amendment to Regulation 18404 — Termination of Candidates and Committees Filing Requirements**

This amendment will eliminate the need to file the following forms to comply with termination requirements:

- Form 415, Recipient Committee Statement of Termination (A new termination section will be included on Form 410, Statement of Organization)
- Form 416, Officeholder/ Candidate Statement of Termination
- Form 501 - Candidate Intention Termination
- Form 502 - Candidate Bank Account Termination

Campaign Forms Revisions

The following revisions to campaign disclosure forms will be presented to the Commission for approval at the August 6 meeting as a result of the campaign reporting simplification project:

- **Forms 419, 420 and 490 Combined**

The three “long form” campaign reports (Form 419 for ballot measure committees; Form 420 for general purpose recipient committees; and Form 490 for candidates and their controlled committees) have been combined into one form for use by all candidates and committees. An amendment box has also been added which will eliminate the Form 405--Amendment to Campaign Disclosure Statement Form. The new zip code and accrued expenses reporting requirements and simplified instructions have been included.

- **Form 410 — Statement of Organization**

The Form 410 has been revised to incorporate the campaign bank account information required for candidates that is currently disclosed on Form 502. A termination section has been included on the Form 410 and the existing Form 415, Statement of Termination, will be eliminated.

- **Form 461— Major Donor and Independent Expenditure Committee Campaign Statement**

The Form 461 has been revised to look more like the long form expenditure reporting schedules. The separate sections for reporting loan repayments and loan forgiveness has been eliminated, and an amendment box to identify amended filings has been added.

- **Form 496 — Late Independent Expenditure Report and Form 497 — Late Contribution Report**

These forms have been revised to add a requirement that each report include a filer-assigned “control” number so that filing officers and the public can distinguish numerous duplicate filings that often occur during the rush of the late contribution period. An amendment identifier has also been added. The Form 497 has also been revised to look more like the reporting schedules on the long form. Additionally, there are separate pages for reporting late contributions received and late contributions made.

- **Form 501 — Candidate Intention and Form 502 — Campaign Bank Account Statement**

The Forms 501 and 502 have been revised to remove the requirement to file a termination form since that process has been added to the Form 410. The Form 502 will now be used only by candidates who are required to open bank accounts, but do not raise or spend \$1,000 or more in a calendar year.

- **New Form 498 — Late Payment Report**

This report was requested by the Secretary of State’s Office and will be used by slate mailer organizations to report \$2,500 or more in payments received during the 16 days immediately preceding the election for which the slate mailer was designed.

Clerk's Corner

New Campaign Forms Coming Soon

As outlined on the previous pages, the Commission is expected to approve various campaign statement form revisions at the August 6 meeting. We wish to express our sincere appreciation for the invaluable input we received from filing officers during the forms simplification process. After the August meeting, master copies of each new form will be sent to you for your use. As soon as you receive the new forms, discontinue using the old forms immediately. However, please accept any filings made on old forms. The forms will also be available on the internet at www.fppc.ca.gov — click on the Forms & Manuals icon.

Candidate/Treasurer Workshops

Numerous workshops for candidates and treasurers have been scheduled (see page 19) in connection with the November 1999 elections. Please encourage your candidates and treasurers to attend these workshops. Consultants will be explaining the new form revisions and other pertinent information at these workshops.

Form 700 Reminder

If your agency is holding a November election, please remember to forward to the Commission the original candidate statements of economic interests for filers whose original statements are retained by the Commission. Additionally, continue to monitor and notify officials to file assuming and leaving office statements throughout the year and forward required original statements to the Commission. The Technical Assistance Division appreciates receiving a copy of the notification letters to filers whose statements are forwarded to the Commission so we can assist in monitoring the assuming and leaving office statement filings.

New Enforcement Referral Form

The Enforcement Division has created new forms especially for filing officers to make enforcement referrals. These new forms contain required information our investigators need to process your referrals in a more efficient manner. The enforcement referral forms and instructions for completion will be sent to you with the campaign forms mailing after the August 6 Commission meeting. If you need a new form immediately or you have questions about completing the form or the referral process, please contact the Enforcement Division at (800)561-1861.

Question of the Month

An incumbent city councilmember is going to run for state assembly in March 2000. The councilmember has an existing city council committee, and she has just set up a committee for the state assembly election. Where are the long form campaign statements required to be filed?

The officeholder must file statements for both committees each time a statement is due and must file in the jurisdiction in which the officeholder holds office and in which the officeholder is seeking office. Therefore, originally signed statements for both committees must be filed with the City Clerk and the Secretary of State. Copies of statements for both committees must also be forwarded to the registrar of voters in the officeholder's county of domicile and the registrar of voters in the county with the largest number of registered voters in the assembly district, if different than the county of domicile.

(Filing officers who wish to have specific issues addressed in future issues may contact Dixie Howard at (916) 322-5660, press 3.)

November 2, 1999 Election Filing Schedule

<i>Filing Deadline</i>	<i>Type of Statement</i>	<i>Period Covered by Statement^{1/}</i>	<i>Method of Delivery</i>
July 31 1999* *Sat. - File by August 2	Semi-annual (only if qualified as a committee prior to 6/30/99)	1/1/99 - 6/30/99	Personal Delivery First Class Mail
September 23	First Pre-election	1/1/99 - 9/18/99 or 7/1/99 - 9/18/99	<ul style="list-style-type: none"> • Personal Delivery • First Class Mail
October 21	Second Pre-election	9/19/99 - 10/16/99	<ul style="list-style-type: none"> • Personal Delivery • Guaranteed Overnight Service^{2/}
24 Hours ^{3/}	Late Contributions and Late Independent Expenditures of \$1,000 or more	10/17/99 - 11/1/99	<ul style="list-style-type: none"> • Personal Delivery • Telegram • Guaranteed Overnight Service • Fax
January 31 2000	Semi-Annual	10/17/99 - 12/31/99	<ul style="list-style-type: none"> • Personal Delivery • First Class Mail

1/ The period covered by any statement begins on the day after the closing date of the last statement filed, or January 1, if no previous statement has been filed.

2/ Personal or guaranteed overnight delivery is required for officeholders/candidates, their controlled committees, and committees primarily formed to support or oppose candidates or measures being voted upon on November 2, 1999. All others may file by first class mail.

3/ The recipient of a late "in-kind" contribution must file a Late Contribution Report within 48 hours from the time the in-kind contribution is received.

Proposition 208 Update:

Proposition 208, a campaign finance initiative passed on the November 1996 General Election ballot established contribution limits for candidates and committees and established additional campaign restrictions and identification rules. On January 6, 1998, the Federal District Court for the Eastern District of California issued a preliminary injunction barring enforcement of Proposition 208 until the State Supreme Court or federal court issues a final decision on the measure. Until that occurs, the provisions of Proposition 208 have been set aside. The existing 1995/96 FPPC Campaign Disclosure Information Manuals, supplemented with this calendar and the 1998 Addendum to Campaign Manuals should be referred to for this election.

Candidates and committees should follow the progress of Proposition 208 in case this situation should change.



Notes:

- This filing schedule should be used by candidates/officeholders, their controlled committees and committees primarily formed to support or oppose candidates or measures in connection with the November 2, 1999 election. Other committees should consult the FPPC.
- Campaign statements which contain 30 pages or less may be faxed provided that the exact original and the required copies are sent to the filing officer(s) by first-class mail or by guaranteed overnight delivery service within 24 hours of the filing deadline. Late Contribution and Late Independent Expenditure Reports may be faxed but are not also required to be mailed.
- City general purpose committees, independent expenditure committees and major donors must file on September 23rd and October 21st *only if* the city is holding an election *and* the committee makes contributions/independent expenditures aggregating \$500 or more during the corresponding period.
- A committee that makes independent expenditures of \$500 or more may be required to file special campaign statements. Contact the FPPC for guidance.

**Refer to appropriate campaign
disclosure manuals for further information**

For technical assistance, contact the Commission at (916) 322-5660.

Filing Schedule for March 7, 2000 Elections

- ❖ Candidates and Ballot Measures to be listed on the March 7 Ballot
- ❖ Primarily Formed Committees to Support/Oppose Candidates and Ballot Measures to be listed on the March 7 Ballot
- ❖ Committees in Cities with a March 7 Election
- ❖ State and County General Purpose Recipient Committees

<i>Filing Deadline</i>	<i>Type of Statement</i>	<i>Period Covered by Statement</i> ^{1/}	<i>Method of Delivery</i>
October 10, 1999 File by October 12, 1999 ^{2/}	Pre-election	1/1/99 - 9/30/99 or 7/1/99 - 9/30/99	❖ Personal Delivery ❖ First Class Mail
January 10, 2000	Semi-Annual	^{1/} - 12/31/99	❖ Personal Delivery ❖ First Class Mail
January 27, 2000	Pre-election	1/1/00 - 1/22/00	❖ Personal Delivery ❖ First Class Mail
February 24, 2000	Pre-election	1/23/00 - 2/19/00	❖ Personal Delivery ^{3/} ❖ Guaranteed Overnight Service
24 Hours	Late Contributions and Late Independent Expenditures of \$1,000 or More ^{4/}	2/20/00 - 3/6/00	❖ Personal Delivery ❖ Telegram ❖ Guaranteed Overnight Service ❖ Fax
July 31, 2000	Semi-Annual	2/20/00 - 6/30/00	❖ Personal Delivery ❖ First Class Mail

Footnotes:

- 1/ The period covered by any statement begins on the day after the closing date of the last statement filed, or January 1, if no previous statement has been filed.
- 2/ October 10, 1999 is a Sunday. October 11, 1999 is a state holiday. The next regular business day is Tuesday, October 12, 1999.
- 3/ Personal or guaranteed overnight delivery is required for officeholders/candidates, their controlled committees, and committees primarily formed to support or oppose candidates or ballot measures being voted upon on March 7, 2000. All others may file by first class mail.
- 4/ The recipient of a late "in-kind" contribution must file a Late Contribution Report within 48 hours from the time the in-kind contribution is received.

Pre-election Statements:

- Candidates are required to file the October 10th statement only if they have filed a Form 501 (Statement of Intention) in connection with the election by September 30, 1999.
- State and county general purpose recipient committees file on October 10th, January 27th, and February 24th if contributions/independent expenditures aggregating \$500 or more are made during the corresponding period.
- City general purpose recipient committees, city major donors and city independent expenditure committees active in a city holding a March 7, 2000 election file on January 27th and February 24th if contributions/independent expenditures aggregating \$500 or more are made during the corresponding period. Such committees are not required to file the October 10th statement. However, legislation is pending that may require the filing of that statement. Such committees should contact the Commission in September for guidance.

All other committees should contact the Commission at (916) 322-5660, press 3.

Candidate/Treasurer Workshops

These two hour workshops, conducted by the Technical Assistance Division, are tailored to assist candidates and treasurers of candidate controlled committees involved in the November election. Mass mailing identification requirements will be discussed in addition to campaign disclosure provisions and prohibitions. Campaign forms will also be reviewed.

The workshops are geared to campaigns that will raise over \$1,000. However, all candidates are welcome and encouraged to attend.

Seating Space is Limited
Reservations Required

❖ ❖ ❖ ❖

Free — Sign up today! 916/322-5660, press 3

See below for locations nearest you!

◆ **City of Palo Alto** ◆

Thursday, August 12th
7:00 p.m. - 9:00 p.m.
Council Chambers
250 Hamilton Avenue
Palo Alto, CA

◆ **City of Vallejo** ◆

Thursday, August 12th
7:00 p.m. - 9:00 p.m.
Council Chambers
555 Santa Clara Street
Vallejo, CA

◆ **City of Concord** ◆

Tuesday, August 17th
7:00 p.m. - 9:00 p.m.
Council Chambers
1950 Parkside Drive
Concord, CA

◆ **Hermosa Beach** ◆

Tuesday, August 17th
7:00 p.m. - 9:00 p.m.
Hermosa Valley School
1645 Valley Drive,
Multi-Purpose Room
Hermosa Beach, CA

◆ **City of Modesto** ◆

Wednesday, August 18th
7:00 p.m. - 9:00 p.m.
Council Chambers
City Hall, 801 11th Street
Modesto, CA

◆ **City of San Bernardino** ◆

Wednesday, August 18th
7:00 p.m. - 9:00 p.m.
Council Chambers
300 North "D" Street, 1st Fl.
San Bernardino, CA

◆ **City of Santa Barbara** ◆

Thursday, August 19th
7:00 p.m. - 9:00 p.m.
735 Anacapa Street, Rm. 15
Santa Barbara, CA

◆ **City of San Mateo** ◆

Thursday, August 19th
7:00 p.m. - 9:00 p.m.
Council Chambers
City Hall,
330 West 20th Avenue
San Mateo, CA

◆ **City of Emeryville** ◆

Saturday, August 21st
11:00 a.m. - 1:00 p.m.
Council Chambers/
Emeryville Police Station
2449 Powell Street, 2nd Fl.
Emeryville, CA

◆ **City of Livermore** ◆

Tuesday, August 24th
7:00 p.m. - 9:00 p.m.
Council Chambers
3575 Pacific Avenue
Livermore, CA

◆ **City of Torrance** ◆

Wednesday, August 25th
7:00 p.m. - 9:00 p.m.
Council Chambers
3031 Torrance Blvd.
Torrance, CA

◆ **City of Riverside** ◆

Thursday, August 26th
7:00 p.m. - 9:00 p.m.
Council Chambers
3900 Main Street
Riverside, CA

Mark Your Calendar...

General Purpose Committee Workshop

- ◆ Overview of campaign disclosure provisions
- ◆ Review of Campaign Forms

A general purpose committee is any entity that receives \$1,000 or more in contributions during a calendar year but is not primarily formed to support or oppose a single officeholder, candidate, measure or specific candidates or measures being voted on in a single election. General purpose committees are more commonly referred to as political action committees (“PACs”).

Friday, October 15
Sacramento
Commission Hearing Room
428 J Street, 8th Floor
10 a.m. to 12 noon

Lobbying Disclosure Workshop

- ◆ Review of Forms 615, 625, and 635
- ◆ Discussion of gift notifications

Friday, October 22
Sacramento
Commission Hearing Room
428 J Street, 8th Floor
10 a.m. to 12 noon

These workshops are not intended for lobbyists who need to attend an orientation course to complete their lobbyist registration. The orientation courses are conducted by the Assembly Legislative Ethics Committee and the Senate Committee on Legislative Ethics. Please call (916) 324-6929 for information on orientation courses.

Fast Facts

Fact sheets on the following topics are now available:

- Recall Elections
- Facts on Mass Mailings
- Using Public Funds for Ballot Measure Elections
- Can I Vote? Conflicts of Interest Overview
- Leaving Your State Job? Post-Employment Restrictions May Affect You
- Limitations and Other Restrictions on Gifts, Honoraria, Travel and Loans
- Campaign Contributions May Cause Conflicts for Appointees and Commissioners (Section 84308 provisions)

These fact sheets are available on the Commission’s website (www.fppc.ca.gov), or by calling the Commission at (916) 322-5660, press 3.

Formal written advice provided pursuant to Government Code section 83114 subdivision (b) does not constitute an opinion of the Commission issued pursuant to Government Code section 83114 subdivision (a) nor a declaration of policy by the Commission. Formal written advice is the application of the law to a particular set of facts provided by the requestor. While this advice may provide guidance to others, the immunity provided by Government Code section 83114 subdivision (b) is limited to the requestor and to the specific facts contained in the formal written advice. (Cal. Code Regs., tit. 2, §18329, subd. (b)(7).)

Informal assistance is also provided to persons whose duties under the act are in question. (Cal. Code Regs., tit. 2, §18329, subd. (c).) In general, informal assistance, rather than formal written advice is provided when the requestor has questions concerning his or her duties, but no specific government decision is pending. (See Cal. Code Regs., tit. 2, §18329, subd. (b)(8)(D).)

Formal advice is identified by the file number beginning with an “A,” while informal assistance is identified by the letter “I.”

On January 6, 1998, the Federal District Court for the Eastern District of California issued a preliminary injunction barring further enforcement of any portion of Proposition 208. (*California Prolife Council PAC vs. Scully*, CIV-S-96-1965 LKK/DAD.) On January 15, 1998, the Fair Political Practices Commission decided to immediately appeal the ruling to the Ninth Circuit Court of Appeals.

The Court of Appeals heard oral arguments on December 8, 1998. The Court of Appeals affirmed the preliminary injunction staying enforcement of Proposition 208, but failed to act on the substantive issues regarding its constitutionality. The district court was directed to proceed to the merits of the case expeditiously, considering the constitutionality of all aspects of the campaign finance system enacted by Proposition 208, to the extent that they may be relevant to a determination of the underlying issues.

Campaign

Kate L. Lynch
Nielsen, Merksamer, Parrinello,
Mueller & Naylor, LLP
Dated January 26, 1999
Our File Number: I-98-323

This letter discusses how a sponsored PAC may report legal and accounting fees paid by its sponsor.

Russell H. Miller
Law Office of Russell H. Miller
Dated February 16, 1999
Our File Number: I-99-014

This letter discusses disclosure of paid circulators of initiative petitions in light of the Supreme Court case *Buckley v. American Constitutional Law Foundation, Inc.* The Commission is prohibited by the California Constitution from declaring a state statute unconstitutional. Until Section 84211(r) is amended by legislation or invalidated by a court, the name, address, and amount paid to individual petition circulators must be reported.

Alfred W. Janske
Metropolitan Greater Oakland
Democratic Club
Dated March 29, 1999
Our File Number: I-99-063

This letter provides guidance for reporting an individual's occupation/employer when retired; when the occupation/employer information on the contributor changes after a contribution has been made; amending a campaign statement; reporting the legal name of a contributor's business when the individual is self-employed and owns more than one business; itemizing payments of less than \$100; and, the annual requirement to report all loans that were outstanding at any time during the calendar year.

Advice Summaries

Campaign (continued)

Alan Boege
La Habra Heights
Dated April 5, 1999
Our File Number: I-99-065

The costs related to producing and sending a mailer may be reportable if the mailer contains express advocacy. If participants are merely volunteering personal services, then no reporting obligations would be incurred.

Nancy N. Zoller
Zoller & Associates
Dated March 23, 1999
Our File Number: I-99-072

When an individual takes out a loan from a commercial lending institution in order to make a loan to a committee and subsequently forgives the loan, the date of forgiveness the committee reports is the date of the forgiveness memo.

Cary Davidson
Reed & Davidson
Dated April 9, 1999
Our File Number: I-99-079

This letter refers to the *Miller* Advice Letter, No. I-99-014, for an analysis of the impact of the recent Supreme Court case *Buckley v. American Constitutional Law Foundation, Inc.*, on the Act's requirements for identification of the sender in mass mailings.

Judy Hoffman
First Assembly of
God of Ventura
Dated May 4, 1999
Our File Number: I-99-090

A church that wishes to raise political contributions or make political expenditures to fund the support of an initiative will become a political committee if it receives or spends \$1,000 in any calendar year. The letter includes a description of the "one bite of the apple" exception.

Ollie M. McCaulley
Sun Valley
Dated April 19, 1999
Our File Number: A-99-099

If a candidate terminates his or her campaign committee with outstanding debt, he or she must file a Form 501 prior to raising additional funds or using personal funds to pay the debt, open a checking account and file a Form 502, and, if \$1,000 or more is collected, file the Form 410.

Nicholas Bevilacqua
Lockheed Martin IMS
Dated June 2, 1999
Our File Number: I-99-126

This letter discusses the "first bite of the apple" rule. There is a presumption that the donor does not have reason to know that all or part of the payment will be used to make expenditures or contributions, unless the organization has made expenditures or contributions of at least \$1,000 in the aggregate during the calendar year in which the payment occurs, or any of the immediately preceding four calendar years.

Proposition 208

Mark Sellers
City of Thousand Oaks
Dated March 25, 1999
Our File Number: G-99-045

A local ordinance that prohibits off-year contributions does not conflict with the Act on the basis that it does not allow officeholders to raise money for officeholder expenses during the off year.

Conflicts of Interest

Nancy C. Miller
LAFCO

Dated March 30, 1999
Our File Number: A-98-309

A LAFCO member's property is directly involved in a decision to incorporate a new city. However, he may participate in the decision since the public generally exception applies.

Michael H. Miller
City of Arcadia

Dated February 24, 1999
Our File Number: A-99-019

A councilmember who owns horses that race at Santa Anita Park must disqualify himself from decisions about the development of certain land in Santa Anita Park (and other decisions that would have a material financial effect on the Los Angeles Turf Club and related business entities), if he has received \$250 or more in income from the Los Angeles Turf Club in the past 12 months.

Michael Miller
City of Arcadia

Dated April 30, 1999
Our File Number: A-99-019(a)

A councilmember who owns horses that race at Santa Anita Park must disqualify himself from decisions about the development of certain land in Santa Anita Park if he has received \$250 or more in income from the Los Angeles Turf Club in the past 12 months. Business and Professions Code Section 19424.5 contains an exception to disqualification for members of the California Horse Racing Board who have received income from horse racing. However, this exception, which was enacted under Regulation 18707.4 of the Act permitting industry representation on regulatory boards, only applies to members of the state board and not to councilmembers.

Robert K. Gaultney
Department of Corrections
Dated March 15, 1999
Our File Number: A-99-022

There is no conflict of interest caused by a public official's acceptance of a teaching position with Humboldt State University and the Department of Justice. Payments constitute reportable income, but not an honorarium.

Wynne S. Furth
City of Palo Alto
Dated April 14, 1999
Our File Number: A-99-035

This letter includes a lengthy discussion on the public generally exception as it applies to a decision to include properties on a city's register of properties with historic merit.

Maria M. Stewart
City of Santa Monica
Dated April 1, 1999
Our File Number: I-99-050

A councilmember may not make, participate in making, or influence the city council's decision with regard to the councilmember's economic interests because the decision will have a material financial effect on his economic interests.

Kate Neiswender
Senate Committee on
Natural Resources and Wildlife
Dated March 30, 1999
Our File Number: I-99-054

The Act's conflict of interest provisions do not prohibit a Senate staffer, who is an attorney, from maintaining professional relationships with clients possibly affected by Senate bills. However, the conflict of interest provisions may limit her activities as a Senate employee.

Advice Summaries

Conflicts of Interest (continued)

David McMurtry
City of Dixon
Dated April 20, 1999
Our File Number: A-99-058

This letter analyzes economic interests and the degree of involvement in a governmental decision where a public official is a trustee of, and a participant in, a private defined contribution retirement plan which has invested in a business entity implicated in the governmental decision.

Steven S. Lucas
City of Santa Rosa
Dated April 2, 1999
Our File Number: A-99-059

A city official does not have an economic interest in a director of a nonprofit entity where the director and seven other directors, approved a contract between the nonprofit entity and the official.

Gregory N. Weiler
City of Hesperia
Dated April 29, 1999
Our File Number: A-99-060

A councilmember, who is a real estate broker, has listing agreements with the owners of two properties that the city will acquire by either negotiated sale or eminent domain. Since he will receive a commission regardless of how the city acquires the properties, he may not participate in the city council decisions regarding the acquisition of the properties.

Michael Erin Woody
City of Fresno
Dated April 1, 1999
Our File Number: I-99-061

A public official may prepare architectural drawings and submissions to be used by a client in connection with a proceeding before any agency.

Michael R. Downey
City of Santa Clara
Dated June 1, 1999
Our File Number: A-99-069

A public official may participate in a decision if it is not foreseeable that the decision will have a material financial effect on her economic interests. This letter discusses "beneficial interest" in real property and finds property interest where the parties are under contract to purchase.

Mary E. Binning
City of Orange
Dated April 13, 1999
Our File Number: A-99-071

A planning commissioner may represent his employer before agencies other than the planning commission, so long as he does not also purport to represent the planning commission.

Dennis G. Plessas
**Sacramento County Fire
Protection District**
Dated April 14, 1999
Our File Number: I-99-075

Salary from the American River Fire Protection District, a government agency, is not a disqualifying conflict of interest unless it is reasonably foreseeable that the decision will have a personal financial effect of \$250 or more during any 12-month period.

Bob Whitney
**Brooktrails Township
Community Services District**
Dated April 26, 1999
Our File Number: A-99-076

A public official has a business dispute with the owner of real property which is directly involved in an upcoming decision. Although the dispute is unrelated to the decision or the property, the decision may have a derivative impact on the dispute, and there may be possible litigation over the dispute. There is a possibility of a personal financial effect.

Conflicts of Interest (continued)

Bob Whitney
Brooktrails Township
Community Services District
Dated April 26, 1999
Our File Number: A-99-077

A public official's source of income owns real property which is directly involved in a decision to recommend a highway location (routes under consideration would pass over his property). The public official has a conflict of interest unless there is no foreseeable financial effect whatsoever.

Martin G. McClelland
LAFCO
Dated April 23, 1999
Our File Number: A-99-078

A LAFCO member may participate in a grading ordinance that will not be considered or acted on by his commission.

Robert Sawyer
City of Ukiah
Dated May 21, 1999
Our File Number: I-99-085

When a public official has an economic interest in a general partnership consisting of two general partners, each partner has an investment economic interest in the other.

Malcolm Hunter
City of Richmond
Dated May 18, 1999
Our File Number: A-99-088

A city councilmember may not participate in a decision if it is reasonably foreseeable that the decision will have a financial effect on the real estate agency that employs her husband or his client, a developer.

Michael R. Woods
City of Pittsburg
Dated April 19, 1999
Our File Number: A-99-089

Councilmembers may vote on a project which threatens local water supply. Even if there were a material financial effect on the officials' property interests, those effects would not be distinguishable from the effects on the public generally.

Ann R. Danforth
Town of Tiburon
Dated May 27, 1999
Our File Number: A-99-095

Membership in a nonprofit recreational club is an asset, within the meaning of the personal financial effects rule. The public generally exception is applied to find no conflict of interest despite a reasonably foreseeable material financial effect.

David De Berry
City of Orange
Dated April 15, 1999
Our File Number: A-99-096

If a city council makes recommendations to a transportation authority and a public official participates in making those recommendations, the official is using his official position to influence the authority's decision.

Rosann Gallien
Port of San Diego
Dated May 14, 1999
Our File Number: A-99-092

A commissioner may not participate in decisions concerning a plan if the alternatives in the plan would cause her employer to be the subject of a proceeding which would have a direct impact on its future operations; however, she may participate if the alternatives in the plan will not have a reasonably foreseeable material financial effect on her employer.

Advice Summaries

Conflicts of Interest (continued)

David J. Weiland
City of Mendota
Dated May 20, 1999
Our File Number: A-99-097

A city councilmember who is a general contractor has a disqualifying conflict of interest in decisions concerning the foreclosure assessment liens against a developer who is a source of income to him.

David M. Kennedy
Madera County
Dated May 4, 1999
Our File Number: I-99-102

This letter describes the disclosure requirements that a public official must follow when the official decides not to participate in a decision due to a conflict of interest.

Bill Daniels
Sacramento County
Fire Protection District
Dated May 11, 1999
Our File Number: I-99-105

Holding two public positions simultaneously does not create a conflict of interest under the Act. This letter also discusses the “personal effects” rule and refers the requester to the Attorney General’s office for other provisions of law.

Frederick P. Kovel
City of Solvang
Dated May 5, 1999
Our File Number: A-99-106

A councilmember who is also a named party in the city’s lawsuit does not acquire a disqualifying financial interest in decisions relating to appellate litigation merely because the opposing party files a motion for sanctions for “frivolous appeal.” A material financial effect on the official is not foreseeable unless and until the appellate court notifies the parties that it will consider the sanctions.

Robert O. Owen
City of San Jacinto
Dated May 3, 1999
Our File Number: A-99-108

This letter addresses whether a mayor has a conflict of interest in decisions regarding a recall election where the mayor is the subject of the recall.

Steve Plyler
City of Oceanside
Dated May 18, 1999
Our File Number: A-99-109

A public official is considering selling his business to a person who might be affected by decisions that the official makes in his official capacity. Conflict of interest implications of the transaction are discussed.

Rachel E. O’Malley
City of Santa Cruz
Dated May 20, 1999
Our File Number: A-99-110

A public official who has a conflict of interest may neither testify nor submit written comments as a member of the general public before her commission because she does not meet the criteria in Regulation 18702.4(b).

David R.E. Aladjem
Santa Maria Valley
Water Conservation District
Dated May 27, 1999
Our File Number: A-99-111

Members of a water district who own real property and/or business interests in the district may have a conflict of interest in decisions regarding litigation between the district and the city seeking a determination regarding water rights.

Conflicts of Interest (continued)

Orry P. Korb
Town of Los Gatos
Dated May 25, 1999
Our File Number: A-99-113

A twenty-five percent shareholder of a limited liability corporation ("LLC"), who does not control decisions of the LLC, will not be an economic interest to a public official who is employed by the LLC.

Ann R. Danforth
Town of Tiburon
Dated May 20, 1999
Our File Number: A-99-117

Although a public official's deed has restrictions which limit the resale price of her personal residence, any reasonably foreseeable financial effect on the residence's fair market value is deemed to be material.

Ann R. Danforth
Town of Tiburon
Dated May 18, 1999
Our File Number: A-99-118

This letter analyzes the impact of a conditional use permit decision on indirectly involved personal residences more than 300 feet, but less than 2,500 feet from the project site. The "small jurisdiction/personal residence" exception is applicable.

Ann R. Danforth
Town of Tiburon
Dated May 27, 1999
Our File Number: A-99-119

A public official has no economic interest involved in a decision; therefore, no conflict of interest exists. Regulation 18233 is applied, where a public official has a month-to-month lease.

David J. Aleshire
City of Palm Springs
Dated June 14, 1999
Our File Number: I-99-121

Board members of a nonprofit economic development corporation will become subject to the statements of economic interests and conflict of interest provisions of the Act if their duties permit or require them to function as "public officials" within the meaning of the Act.

Thomas B. Brown
City of Napa
Dated May 28, 1999
Our File Number: A-99-125

A public official who is the president of a grocery store has a conflict of interest in a decision to approve the development of nearby residential units.

Charles M. Cooke
Sonoma County
Planning Agency
Dated May 28, 1999
Our File Number: A-99-127

This letter discusses whether the owner of a vineyard that is leased to a winery has a conflict of interest in a decision to adopt an ordinance that will affect the incidental operations of all wineries in the county.

Allan C. Moore
City of Walnut Creek
Dated June 7, 1999
Our File Number: I-99-130

The Act does not prohibit a public official from purchasing a lot and a home that was reviewed by the planning commission. The requestor was advised to contact the Attorney General's Office regarding other laws that may apply.

Advice Summaries

Conflicts of Interest (continued)

Henry Empeño, Jr.
City of San Bernardino
Dated June 10, 1999
Our File Number: A-99-137

A planning commissioner is an employee of a construction management company that is working on two projects that will come before the planning commission and other city agencies. He may prepare engineering drawings, but his contact with other agencies is limited by Regulation 18702.3(a) and (b).

David Solaro
El Dorado County
Dated June 3, 1999
Our File Number: A-99-142

A public official works for an airline and receives some free air travel as part of his benefits package. The benefits package, including the free air travel, is for services rendered and is considered reportable income.

Scott C. Smith
City of Santee
Dated June 16, 1999
Our File Number: A-99-146

Legal representation provided by a ballot measure committee for the defense of a ballot argument was not a “gift” to the mayor who signed the argument and who was a real party in interest in the litigation. The mayor did not receive a “personal benefit.” He did not want the representation, he did not need the representation, and he was unaware that he was being represented. Moreover, it was unlikely that the mayor would have incurred any personal expenses had he not been represented.

Walt Pachucki
Tri-Valley Groundwater
Management District
Dated June 16, 1999
Our File Number: I-99-169

The Act does not prohibit consultants from contracting with two separate governmental entities.

Co-Sponsored Events

Honorable Charles S. Poochigian
California State Senate
Dated May 28, 1999
Our File Number: I-99-112

Event publicity identifying sponsors of a conference on women’s health is neither a gift nor a contribution to the legislator/sponsor. Use of the legislator’s name to benefit the event is not limited by the Act’s “personal use” restrictions. The legislator may use campaign funds only to sponsor events held by a registered nonprofit entity.

Statements of Economic Interests

Frank Feldhaus
City of Anaheim
Dated April 6, 1999
Our File Number: A-99-046

A city councilmember who is the sole shareholder of a corporation must disclose the name of each customer who was a source of income of \$10,000 or more to the corporation during the reporting period, unless the Commission determines such disclosure would infringe upon a recognized privilege.

Greg Knudson
City of Santa Barbara
Dated April 15, 1999
Our File Number: A-99-067

For SEI filing, the meaning of “reasonable diligence” varies with circumstances, and requires common sense judgment. Factors include: (1) the nature of the company invested in; (2) the filer’s actual knowledge; and (3) knowledge the filer can be reasonably expected to have about his/her jurisdiction, employment, etc.

Gerald James
Association of California
State Attorneys and
Administrative Law Judges
Dated April 15, 1999
Our File Number: I-99-083

Travel payments to board members of the Association of California State Attorneys and Administrative Law Judges, an association organized under IRS Code Section 501(c)(5), in connection with their duties as members of the board, are reportable as income on their statements of economic interests.

Michael Jenkins
South Bay Cities
Council of Governments
Dated June 1, 1999
Our File Number: A-99-135

Board members of a Council of Governments who are also city councilmembers may file an expanded statement of economic interests covering both positions. The jurisdiction for the individual filer is the area covered by the Council of Governments. Alternates have the same reporting obligations as other board members.

Mass Mail

Gloria White-Brown
South Coast Air Quality
Management District
Dated April 21, 1999
Our File Number: A-99-073

If a mailing is not being prepared or sent in cooperation, consultation, coordination, or concert with elected officers, use of the elected officers’ names is permitted, provided that the officers are not featured in the mailing.

Martha Clark Lofgren
City of Folsom
Dated April 20, 1999
Our File Number: A-99-087

This letter discusses whether a city may include in its newsletter the mayor’s state of the city address, which was presented at a city council meeting.

Elizabeth L. Martyn
City of West Covina
Dated May 26, 1999
Our File Number: A-99-103

The mass mailing provisions prohibit publishing an article that “features” a city councilmember who is affiliated with one of the agencies that produces and sends the newsletter/mailing.

Advice Summaries

Revolving Door

Gary Grimm
State Water Resources
Control Board
Dated April 17, 1999
Our File Number: A-99-086

An application to amend a waste discharge order, to include new provisions regarding apportionment of liability as between the two named dischargers, is a “new proceeding” for purposes of the “revolving door” provisions of the Act.

Rick Cooper
City and County
of San Francisco
Dated May 17, 1999
Our File Number: A-99-094

A city/county environmental analyst may not identify himself on any environmental impact reports circulated to his former state agency employer for twelve months after the date he leaves employment with that agency.

Richard A. Marovich
Department of
Pesticide Regulation
Dated June 2, 1999
Our File Number: A-99-131

The one-year ban does not prohibit a former state employee from preparing materials that will be attached to an application submitted to his former state employer as long as the former employee is not in any way identified with the communication.

Conflict of Interest Code

Dina E. Goldman
The State Bar of California
Dated April 22, 1999
Our File Number: A-99-064

Government Code Section 87462 applies to designated employees of the State Bar of California.

Veronica Gomez
The Task Force on
Court Facilities
Dated April 12, 1999
Our File Number: A-99-068

The Task Force on Court Facilities is a “state agency” under Section 82049, not “an agency in the judicial branch of government,” therefore, the reviewing body for the Task Force’s conflict of interest code is the Commission.

Lobbying

James R. Sutton
Nielsen, Merksamer, Parrinello,
Mueller & Naylor, LLP
Dated May 3, 1999
Our File Number: I-99-093

This letter addresses how a public relations firm may qualify as a lobbying firm.

Honoraria

John P. Powell, Jr.
Coachella Valley Water District
Board of Directors
Dated March 26, 1999
Our File Number: A-99-040

A public official who is also a member of the National Advisory Council on Migrant Health (“NACMH”), is a federal government employee for purposes of the NACMH meetings. Accordingly, the payments he receives for those meetings are not prohibited, limited or reportable.

Sue McCloud
City of Carmel-by-the-Sea
Dated March 25, 1999
Our File Number: A-99-070

A city councilmember, who was formerly a senior officer with the CIA, may not accept payments for speeches about the CIA through the CIA’s outreach program.

Gift Limits

Michael A. Nemeroff
Andersen Consulting LLP
Dated June 7, 1999
Our File Number: A-99-148

A raffle prize donated to a nonprofit corporation is not a “gift” so long as the raffle is a bona fide competition and not related to the recipient’s status as a public official.